
OLR Bill Analysis

sHB 6312

AN ACT CONCERNING THE RIGHTS OF A PARENT OR GUARDIAN IN AN INVESTIGATION BY THE DEPARTMENT OF CHILDREN AND FAMILIES.

SUMMARY:

This bill requires the Department of Children and Families (DCF), when making an initial, in-person investigation of a complaint of child abuse or neglect, to give the child's parent or guardian written notice of his or her rights, as well as the implications for his or her failure to communicate with the department.

The DCF representative must (1) ask the parent or guardian to sign and date the notice as evidence of having received it and (2) immediately provide a copy of the signed notice to the parent or guardian. If the parent or guardian refuses to sign, the representative must (1) indicate on the notice that he or she was asked to sign and date it, but refused to do so and (2) sign it as witness to that fact.

EFFECTIVE DATE: October 1, 2011

NOTICE OF PARENTAL RIGHTS

DCF must make reasonable efforts to ensure that the notice is written in plain language and in a language and manner the parent or guardian understands. The notice must inform the parent or guardian that he or she is not required to:

1. permit the DCF representative to enter the residence without an authorizing warrant (generally, unless accompanied by a law enforcement officer with a warrant, a DCF employee would not have a warrant);
2. speak to the DCF representative at that time; or

3. sign any document presented by the DCF representative, including any release of claims or service agreement.

In addition, the notice must inform the parent or guardian that:

1. he or she is entitled to legal representation and to have an attorney present when questioned by DCF or asked to sign any DCF document;
2. any statement he or she or any other family member makes can be used against them in an administrative or court proceeding;
3. the DCF representative is not an attorney and cannot provide legal advice;
4. his or her failure to communicate with the DCF representative may have serious consequences, including the child's removal from the home; and
5. it is in his or her best interest to either speak with the DCF representative or consult a qualified attorney.

Though the notice references an authorizing warrant for entering a residence, unless accompanied by a law enforcement officer with a warrant, a DCF employee would not have one. However, if the DCF representative has probable cause to believe a child is at imminent risk of physical harm, the department may remove the child from a dangerous situation for a 96-hour period without a warrant (CGS § 17a-101g(e) and (f) and DCF Policy Manual § 34-10-4).

BACKGROUND

DCF Communication

In practice, a DCF employee provides a copy of the brochure "A Parent's Right to Know" at the start of an investigation of abuse and neglect. It includes some of the information that the bill requires, such as letting the parent know he or she does not have to speak with the DCF employee.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/12/2011)